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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/682,626	10/09/2003	John Herndon	0019012.00005	8438
21878	7590	10/26/2004	EXAMINER	
KENNEDY COVINGTON LOBDELL & HICKMAN, LLP			SUHOL, DMITRY	
214 N. TRYON STREET			ART UNIT	PAPER NUMBER
HEARST TOWER, 47TH FLOOR				
CHARLOTTE, NC 28202			3714	

DATE MAILED: 10/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/682,626	HERNDON, JOHN	
	Examiner Dmitry Suhol	Art Unit 3712	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 02 July 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-9 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 7 and 8 is/are allowed.

6) Claim(s) 1-6 and 9 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date .

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ .

5) Notice of Informal Patent Application (PTO-152)

6) Other: ____ .

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Collins '957. Collins discloses a device for assisting a user to tie a bow containing all of the elements of the claims including with reference to claim 1, a base member (10), an extended string attached to the base member with two ends extending loosely from the base member (figure 1, elements 13 and 14), a holding member supported above the base member (15) and having at least two separate and distinct securing elements thereon spaced from one another (read onto the separate and distinct upper and lower jaw forming jaws 35) formed to temporarily hold the ends of the string in place (figures 8-10) where it is considered that the upper and lower jaw elements are clearly separate and distinct and serve to hold a different one of two ends as shown in figure 9. Two holes with substantially equal portions of a string threaded therethrough, as required by claim 2, are shown as elements 19 and 20 in figure 1.

Claims 1, 3-4 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Bonfigli '984. Bonfigli discloses a device for assisting a user to tie a bow containing all of

the elements of the claims including with reference to claim 1, a base member (12), an extended string attached to the base member with two ends extending loosely from the base member (string 20 attached to the base by member 46 as shown in figure 6b), a holding member supported above the base member (member 14) and having at least two separate and distinct securing elements thereon spaced from one another (openings 30) formed to temporarily hold the ends of the string in place (figures 2-3 and 4a). Each end of the string having a first and second different colored indicators located thereon at a predetermined distance from the base member corresponding generally to the distance between the base member and the securing elements, as required by claim 3, is described in col. 2, lines 1-3 and show in figures 1-2 and 6b, where it is considered that the colors correspond to the distance between the base and the securing elements as each of the respective colors is positioned along the corresponding portion of the string that is held by the respective securing elements. The securing elements having a different color that corresponds to the first and second color indicators on the ends of the strings, as required by claim 3, are described at col. 2, lines 3-8. One of the strings having a third colored indicator that is different from the first and second indicators and located between one of the first or second colored indicators and the tip end of one of the strings, as required by claim 4, is shown as delineated area 27 in figure 1, where it can be seen that the delineated area is located between a first colored portion of string 28 and the tip thereof.

Bonfigli further discloses all of the method steps of claim 9, including placing two different color indicators on a length of string at predetermined locations along the

length thereof (col. 2, lines 1-3 and show in figures 1-2 and 6b), providing a base member (12b) for holding said string at a central portion thereof so that the ends of the string can extend loosely from the base member (figure 6b), positioning two securing elements above said base member (side-flaps 14b) with each of said securing elements being colored to correspond, respectively, to the color of one of said color indicators on said string (col. 2, lines 3-11), temporarily securing one end of said string to one of said securing members so that the colored indicator on said end of said string is positioned adjacent said securing member of the same color (shown in figures 2-3 and 4a), temporarily securing the other end of said string to the other one of said securing members so that the colored indicator on said other end of said string is positioned adjacent said other securing member of the same color (show in figures 2-3 and 4a), and manipulating the tip ends of both said ends of said string to form the loops of a bow in said string while at least one of said ends of said string is temporarily secured to at least one of said securing members (figures 2-3 and 4a).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Collins '957. Collins discloses most of the elements of the claims, as stated above, and further including a vertically extending post being removably mounted on the base (col. 4, lines 46-55) where it is considered that a connection of a friction fit (i.e. a "snug" fit as described) is a removable connection since the stem 29 can simply be removed from socket 30.

Collins fails to teach that the holding member is removably attached to the post. It would have been obvious to one having ordinary skill in the art, at the time of the claimed invention to manufacture the device of Collins with a removable jaws portion, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Collins '957 in view of Cohen '296. Although Collins discloses most of the elements of the claims, as stated above, Collins fails to teach a base member including a drawing of a rabbit thereon and holes in the base member being located where the ears of the rabbit are located. However, Cohen discloses a device used to teach a person to tie a bow which teaches that it is known to provide an image of a rabbit (14) on such a device where when tied the bow having the appearance of ears of a rabbit (figures 1-3). Therefore it would have been obvious to have provided the device of Collins with an image of a rabbit such that the placement of the image would locate the holes where

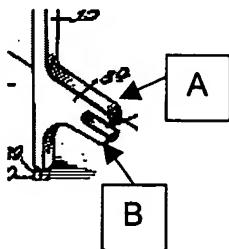
the ears of the rabbit would be for the purpose of providing a warm and friendly association that a child can make with such an animal.

Allowable Subject Matter

Claim 7-8 are allowed.

Response to Arguments

Applicant's arguments filed July 2nd, 2004 with respect to the Collins '957 reference have been fully considered but they are not persuasive. Applicants argue that the amended claim language of "separate and distinct holding members that can hold two separate ends of a string simultaneously and in space relation to one another" defines over the Collins. In response the examiner points out that Collins discloses an upper and lower jaw (elements A and B as shown in the figure below)



which are clearly separate and distinct and are clearly capable of fulfilling the function of holding a different one of the two ends of the strings (i.e. one end of the string can easily be placed on the lower jaw element B while the other end of the string can be easily placed on the upper jaw element A).

The rejections under 35 USC 112 second paragraph have been withdrawn in response to applicants argument found at pages 5-6 of the response submitted July 2nd, 2004.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dmitry Suhol whose telephone number is 703-305-0085. The examiner can normally be reached on Mon - Friday 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ds

Dmitry Suhol
Dmitry Suhol